

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT	Docket Number (Optional) 62072(51590)
<p>In re Application of: Yuri A. Kolesnikov et al.</p> <p>Application No.: 09/806,645-Conf. #3048</p> <p>Filed: July 12, 2001</p> <p>For: TOPICAL COMPOSITIONS COMPRISING AN OPIOID ANALGESIC AND AN NMDA ANTAGONIST</p> <p>The owner*, <u>Memorial Sloan-Kettering Cancer Center</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. <u>6,825,203</u> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none">expires for failure to pay a maintenance fee;is held unenforceable;is found invalid by a court of competent jurisdiction;is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;has all claims canceled by a reexamination certificate;is reissued; oris in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer. <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p style="padding-left: 20px;">I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>41,281</u></p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 60%; text-align: center;"><u>/Mark D. Russett/</u> Signature</div><div style="width: 35%; text-align: center;"><u>November 4, 2009</u> Date</div></div> <div style="display: flex; justify-content: center; margin-top: 10px;"><u>Mark D. Russett, Reg. No. 41,281</u> Typed or printed name</div> <div style="display: flex; justify-content: flex-end; margin-top: 10px;"><u>(617) 239-0100</u> Telephone Number</div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p style="text-align: center; font-weight: bold; margin-top: 10px;">WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p><small>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</small></p>	
<div style="border: 1px solid black; padding: 5px;"><p>I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).</p><div style="display: flex; justify-content: space-between;">Dated: November 4, 2009Electronic Signature for Mark D. Russett, Reg. No. 41,281: <u>/Mark D. Russett/</u></div></div>	